



## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  SCD BACK AND JOINT CLINIC LTD 200 EAST 24 <sup>TH</sup> STREET SUITE B BRYAN TX 77803	MFDR Tracking #: M4-05-2770-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #:  BRYAN ISD Box #: 43	Date of Injury:
	Employer Name:
	Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

**Requestor's Position Summary:** "Carrier has not responded to any of our claim submissions. Carrier was mailed claims originally as stated on each claim form. Carrier responded to some claims after RFR submission, original EOBs never received. Please see TWCC Rule §133.300 and Texas Labor Code §408.027." "TWCC required documentation was sent with the bill." "ICC reduced or denied payment after reconsideration. Original response to medical bill should be obtained from the IC." "T/S is related to the compensable injury." "This t/s was medically reasonable and necessary."

**Total Amount in Dispute: \$1,086.03**

### PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

**Respondent's Position Summary:** The respondent did not submit a position summary in the response package.

### PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
12/19/2003 12/22/2003	99212-25-52	Not Applicable	\$20.96	\$0.00
12/19/2003	97012	Not Applicable	\$17.20	\$0.00
12/19/2003 12/22/2003 12/24/2003 12/29/2003	97110 (X4)	Not Applicable	\$130.00	\$0.00
12/19/2003	98940	Not Applicable	\$30.13	\$0.00
12/19/2003 12/22/2003 12/24/2003 12/29/2003	97150	Not Applicable	\$21.37	\$0.00
12/19/2003	97124	Not Applicable	\$25.69	\$0.00
12/19/2003 12/22/2003 12/24/2003 12/29/2003	98943	Not Applicable	\$27.97	\$0.00
12/30/2003	99213-52	Not Applicable	\$29.50	\$0.00
12/30/2003	97750-MT	Not Applicable	\$33.40	\$0.00
12/30/2003	97750-MT (X2)	Not Applicable	\$66.80	\$0.00
12/30/2003	95851	Not Applicable	\$30.60	\$0.00

1/6/2004	99212-52	Not Applicable	\$20.96	\$0.00
1/6/2004	99080-73	Not Applicable	\$15.00	\$0.00
7/22/2004	99213-25-52	Not Applicable	\$29.50	\$0.00
7/22/2004	98943	Not Applicable	\$27.97	\$0.00
			<b>Total Due:</b>	<b>\$0.00</b>

## **PART V: FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Tex. Lab. Code Ann. §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, requires that services not identified in a fee guideline shall be reimbursed at fair and reasonable rates.
2. Texas Labor Code §413.011 requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control.
3. Division rule at 28 TAC §134.202, titled *Medical Fee Guideline*, effective August 1, 2003, sets out the reimbursement for medical treatment and services.
4. Division rule at 28 TAC §133.307, effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, sets out the procedure for medical fee dispute resolution.
5. Division rule at 28 TAC §129.5, effective July 16, 2000, 25 TexReg 6520, sets out the requirements for filing and billing work status reports.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated 8/6/2004

- O-Upon review of your request for reconsideration, no additional benefit is recommended at this time.

### **Issues**

1. Did the requestor send required additional documentation as requested by the Division as requested by the Division in accordance with Division rule at 28 TAC §133.307?
2. Did the requestor support the position that reimbursement is due for CPT codes 99212-25-52, 97012, 97110, 97150, 97124, 99213-52, 97750-MT, 95851 and 99080-73 by the Division in accordance with Division rules at 28 TAC §133.307, §134.202, and §129.5?
3. Did the requestor support the position that reimbursement is due for chiropractic treatment billed with CPT codes 98940 and 98943?
4. Did the requestor support position that amount billed for CPT code 98943 is fair and reasonable?

### **Findings**

1. Division rule at 28 TAC §133.307(g)(3)(B) requires the requestor to send additional documentation relevant to the fee dispute including "a copy of any pertinent medical records." Review of the documentation submitted by the requestor finds that the requestor has not provided medical records to support the services in dispute. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.307(g)(3)(B).
2. Division rule at 28 TAC §134.202(b) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program methodologies, models, and values or weight including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section."

The requestor billed CPT code 99212-25-52 for "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A problem focused history; A problem focused examination; Straightforward medical decision making. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are self limited or minor. Physicians typically spend 10 minutes face-to-face with the patient and/or family" on 12/19/2003, 12/22/2003, and 1/6/2004. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 97012 for "Application of a modality to 1 or more areas; traction, mechanical" on

12/19/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 97110 (X4) for "Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility" on 12/19/2003, 12/22/2003, 12/24/2003, and 12/29/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 98940 for "Chiropractic manipulative treatment (CMT); spinal, 1-2 regions" on 12/19/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 97150 for "Therapeutic procedure(s), group (2 or more individuals)" on 12/19/2003, 12/22/2003, 12/24/2003, and 12/29/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 97124 for "Therapeutic procedure, 1 or more areas, each 15 minutes; massage, including effleurage, petrissage and/or tapotement (stroking, compression, percussion)" on 12/19/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 99213 for "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 15 minutes face-to-face with the patient and/or family" on 12/30/2003 and 7/22/2004. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 97750-MT for "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes" on 12/30/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 95851 for "Range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine)" on 12/30/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 99080-73 for work status report. Division rule at 28 TAC §129.5(i) states "Notwithstanding any other provision this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15..." The requestor did not submit a copy of the work status report to support it was required under Division rule at 28 TAC §129.5; therefore, reimbursement is not recommended.

3. Division rule at 28 TAC §134.202(a)(3) states "Notwithstanding Centers for Medicare and Medicaid Services (CMS) payment policies, chiropractors may be reimbursed for services provided within the scope of their practice act."

The requestor billed CPT code 98940 for "Chiropractic manipulative treatment (CMT); spinal, 1-2 regions" on 12/19/2003. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

The requestor billed CPT code 98943 for "Chiropractic manipulative treatment (CMT); extraspinal, 1 or more regions" on 12/19/2003, 12/22/2003, 12/24/2003 and 7/22/2004. The requestor did not submit medical records to support billed service in accordance with Division rule at 28 TAC §133.307(g)(3)(B), and §134.202(b); therefore, reimbursement is not recommended.

4. Division rule at 28 TAC §134.202(c)(6) states "for products and services for which CMS or the commission does not establish a relative value unit and/or a payment amount the carrier shall assign a relative value, which may be based on nationally recognized published relative value studies, published commission medical dispute decisions, and values assigned for services involving similar work and resource commitments." The Division finds that CPT code 98943 does not have an established relative value and the insurance carrier did not submit documentation to support that the carrier has assigned a relative value.

Division rule at 28 TAC §134.202(d) states "In all cases, reimbursement shall be the least of the: (1) MAR amount as established by this rule; (2) health care provider's usual and customary charge; or (3) health care provider's workers'

compensation negotiated and/or contracted amount that applies to the billed service(s)."

Review of the documentation submitted by the parties to this dispute finds no documentation to support that an amount was pre-negotiated and/or contracted between the provider and carrier for the disputed CPT code 98943; therefore, the insurance carrier shall reimburse the provider the fair and reasonable rate in accordance with Division rule at 28 TAC §134.1.

Division rule at 28 TAC §134.1 requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission."

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

Division rule at 28 TAC §133.307(g)(3)(D) requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that:

- The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
- The requestor does not discuss or explain how payment of \$27.97 for CPT code 98943 would result in a fair and reasonable reimbursement.
- The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
- The requestor does not discuss or explain how payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.
- The requestor did not submit nationally recognized published relative value studies, published commission medical dispute decisions, or values assigned for services involving similar work and resource commitments.

The request for reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for CPT code 98943.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor for the disputed services. For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

### **PART VI: ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031 and §413.019 (if applicable), the Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

**1/21/2011**

\_\_\_\_\_  
Date

## PART VII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**